IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 212 of 2000

Date of decision: 9.4.2007

State of H.P ..Petitioner

Versus

C.R.Premi and others ….Respondents

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge

Whether approved for reporting?

For the Petitioner: Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG

For Respondents No.1 to 3 None.

Per Deepak Gupta, J (Oral)

The respondent No.1 was appointed to the Himachal Pradesh Forest Services (HPFS) on 1.4.1967. He retired from service after attaining the age of superannuation on 31.3.2000.

The respondent No.1 after completing the requisite service was eligible for induction into the Indian Forest Services (IFS). There is no dispute with regard to the fact that the first meeting of the Departmental Promotion Committee (DPC), in which the case of the respondent No.1 was considered, took place on 22nd March, 1986. It is also not disputed that a number of criminal cases had already been lodged against the respondent No.1 and he infact remained under suspension from 16.6.1983 to 21.6.1984 and from 23.12.1986 to 18.7.1989. The DPC which met on 22nd March 1986 to consider the case of the respondent No.1 for induction into the IFS found him unfit on the ground that the integrity certificate was withheld by the State. The case of the respondent No.1 was

thereafter considered by subsequent Departmental Promotion Committees and the name of respondent No.1 was included in the Select List on provisional basis but this was subject to his clearance in the inquiries pending against him and grant of integrity certificate.

The criminal cases had admittedly not concluded by then and the State Government never issued an integrity certificate in favour of respondent No.1, who thereafter filed an original application before the Central Administrative Tribunal on the ground that integrity certificate could not be withheld for such a long period. He contended that the criminal cases were pending against him for many-many years and he should not have been denied the right to receive promotion only because the cases were not concluded. Reliance was placed on the judgement of the Apex Court in 1995(1)-SLR-700 *State of Punjab and others vs. Chaman Lal Goyal.* The Tribunal relying upon the aforesaid judgement has directed the Union of India and State of Himachal Pradesh to consider the case of the respondent No.1 for promotion without reference to and without taking into consideration the charges or the pendency of the criminal cases against him . It has further directed that the promotion so made would however be subject to review after the conclusion of the criminal cases against him.

Aggrieved by order of the Tribunal dated 10th January, 2000 State approached this Court. This Court admitted the writ petition and also stayed the operation of the impugned order pending disposal of the writ.

At the time of the hearing of the petition we were informed by the learned Advocate General that in three cases arising out of FIR No. 12/83, FIR No. 49/83 and FIR No.51/83 the

respondent No.1 has been convicted for various offences including offences under the Prevention of Corruption Act. Some of the cases have resultant in the acquittal of the respondent No.1. In all the cases appeals have been filed either by the State or by the respondent No.1

Keeping in view the subsequent developments, it is apparent that the order of the Tribunal cannot be upheld any longer. In our opinion, the judgement in Chaman Lal Goyal (supra) page-700 had no applicability to the facts of the present case. That case related to delay in initiation of disciplinary proceedings. In the present case a number of criminal cases were lodged against the employee by the State and the cases were pending. No doubt, the cases have been pending for a long time but this was no ground to hold that the State should totally discard the various criminal cases pending against its employee. We cannot lose sight of the fact that the respondent was charged with serious offences in as many as 15 cases and in 3 cases he has been convicted. Obviously, he cannot be granted an integrity certificate after such conviction, therefore, there is no point in sending his case back for consideration.

Accordingly, we allow the writ petition of the State and set-aside the order the learned Central Administrative Tribunal dated 10th January, 2000 and dismiss the original application filed by respondent No.1. No order as to costs.

(Deepak Gupta), J.

April 9, 2007 (Surinder Singh), J.

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